

**EXHIBIT 8**

**DECLARATION OF**

**BARRY J. SCHUELER**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA and  
THE STATE OF OHIO,

Plaintiff,

v.

THE BOARD OF COUNTY  
COMMISSIONERS OF HAMILTON  
COUNTY, OHIO and THE CITY  
OF CINCINNATI, OHIO,

Defendants.

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) Civil Action No. C-1-02-107  
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) DECLARATION OF  
) BARRY J. SCHUELER  
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I, Barry J. Schueler, declare that:

1. I am employed by the United States Army Corps of Engineers, Louisville District ("Corps") as a project manager. I have worked for the Corps as a civil engineer for 20 years and have worked as the project manager for the Mill Creek, Ohio Flood Damage Reduction Project ("Mill Creek Project") since June of 2002.

2. As project manager for the Mill Creek Project, I am responsible for the efficient, effective, and timely accomplishment and coordination of the planning, design, construction, and post-construction/warranty phases of the project. I prepare the project budget and the various cost, milestone, and management reports. I plan, program, and oversee the cost and schedule

execution of all phases of the Mill Creek Project. I represent the Corps and serve as the Corps' primary point of contact with the local sponsor/customer throughout the project's life.

3. A General Reevaluation is currently being conducted for the Mill Creek Project. Through the general reevaluation, the project is being reanalyzed using current planning criteria and policies to determine whether the project should be implemented as previously planned, reformulated and implemented as modified, or terminated. The results of the study will be documented in a General Reevaluation Report ("GRR").

4. In the general reevaluation process for the Mill Creek Project, the Corps has evaluated and continues to evaluate a number of structural and non-structural alternatives. An initial evaluation of selected alternatives was documented in the "Report on the Initial Screening of Alternatives" dated March 2003 (Revised July 2003). The report provided an initial screening-level analysis of the alternatives identified in the report based on the information available as of the date of the report. The information documented in the report has been and continues to be modified and updated as additional information becomes available.

5. At present, the Corps has completed the screening-level analysis and initiated the final detailed feasibility level analysis. The screening-level analysis is a preliminary level of analysis used to evaluate a wide array of alternatives and to identify the final alternatives that warrant further more detailed evaluation—alternatives that are potential candidates for the National Economic Development ("NED") plan and/or are the Locally Preferred Plan ("LPP"). The NED plan is the alternative that reasonably maximizes net economic benefits consistent with protecting the Nation's environment. The LPP is the alternative identified by the non-Federal

sponsor—the non-federal entity identified for a study or project which agrees to accept responsibility for certain aspects of that study or project—as the preferred alternative.

6. The Corps is carrying three alternatives identified through the screening-level analysis forward as part of the general reevaluation for final detailed feasibility level analysis: two alternatives identified as potential candidates for the NED plan and the LPP. The LPP for the Mill Creek Project has been identified by the project's non-Federal sponsor—the Millcreek Valley Conservancy District (“MVCD”)—as the deep tunnel alternative.

7. The MVCD is a political subdivision of the State of Ohio formed in 1962 under the authority of Chapter 6101 of the Ohio Revised Code to address water management problems—flooding—in the Mill Creek Valley.

8. The final detailed feasibility level analysis is the final stage of any feasibility study or general reevaluation; it is a more detailed level of analysis used to complete the analysis of the final selected alternatives and to determine which of those alternatives is the NED plan and which alternative will be recommended for implementation. The decision as to which of the alternatives carried forward will be recommended for implementation, if any, will be determined following completion of the final detailed feasibility level analysis and will be documented in the GRR.

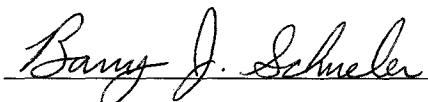
9. The NED plan identified through the final detailed feasibility level analysis will most likely be the recommended plan, if a plan is recommended, unless an exception—recommendation of a LPP—is requested by the non-Federal sponsor and granted by the Assistant Secretary of the Army for Civil Works (“ASA(CW)”). The ASA(CW) may grant an exception,

permitting recommendation of a LPP that is more expensive than the NED plan, when the LPP's outputs are similar in-kind and greater than or equal to those of the NED plan if the non-federal sponsor agrees to pay the difference in cost between the NED plan and LPP. As applied to the Mill Creek Project, this means that the deep tunnel alternative, as the LPP for the project, could ultimately be the recommended plan even if it is not the NED plan if the feasibility-level analysis shows that it meets the criteria for an exemption and the non-Federal sponsor agrees to pay the difference between the deep tunnel alternative and the alternative identified as the NED plan.

10. The schedule for the Mill Creek Project GRR provides for completion of the GRR by March 1, 2005. The GRR will identify the plan recommended for implementation by the District based on the results of the general reevaluation and any requests for an exemption made by the non-federal sponsor.

I declare under penalty of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Executed on the 8<sup>th</sup> day of March 2004, in Louisville, Kentucky.



Barry J. Schueler, P.E.  
Project Manager  
United States Army Corps of Engineers  
Louisville District